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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/519,008	03/03/2000	Roger McAulay	21920-708	6539
32605	7590	05/19/2006	EXAMINER	
MACPHERSON KWOK CHEN & HEID LLP 1762 TECHNOLOGY DRIVE, SUITE 226 SAN JOSE, CA 95110			RUDY, ANDREW J	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 05/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/519,008

Applicant(s)

MCAULAY ET AL.

Examiner

Andrew Joseph Rudy

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23,25,29,30,32-42,44-48,51-72 and 87-95 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23,25,29,30,32-42,44-48,51-72 and 87-95 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 1-23, 25, 29, 30, 32—42, 44-48, 51-72 and 87-95 are pending.

Applicant's Appeal Brief has been reviewed. The previous February 9, 2005 Final Rejection is withdrawn pursuant thereto. The Examiner is cognizant of the prosecution history. However, new references that neither Applicant nor the Examiner has provided has been discovered. One in particular is addressed below.

#### ***Claim Rejections - 35 USC § 103***

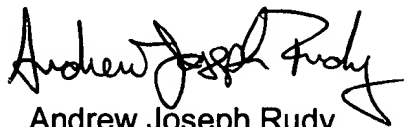
2. Claims 1-23, 25, 29, 30, 32—42, 44-48, 51-72 and 87-95 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiser et al., US 6,385,596.

Wiser discloses a system comprising at least one entertainment unit, e.g. 126, a wide area network, e.g. 102, 106, 110, 112, 116, 118, 124, 128, 132, a master data file, e.g. 200, col. 10, lines 2-13, having a table of contents, a local list, e.g. col. 10, lines 48-59, memory, e.g. claims 45, 96, a transactions database, e.g. 130, and a user interface, e.g. Fig. 14. Wiser does not disclose the term distributed entertainment system. Official Notice is taken that distributed entertainment systems have been common knowledge in the music distribution art. To have provided the system of Wiser to comprise an distributed entertainment system would have been obvious in view of Official Notice. Alternatively, the music downloaded by Wiser may be an obvious use of an distributed entertainment system.

3. Further pertinent references of interest are noted on the attached PTO-892.
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Joseph Rudy whose telephone number is 571-272-6789. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander G. Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Andrew Joseph Rudy  
Primary Examiner  
Art Unit 3627